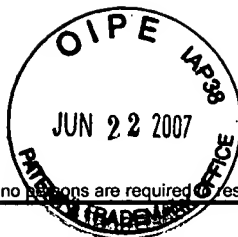


Doc Code: AP.PRE.REQ



PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

Masson-001-US

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

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Typed or printed name _____

Application Number

09/699963

Filed

Nov. 05, 1999

First Named Inventor

Masson

Art Unit

3663

Examiner

To, Tran C.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 51,986

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Timothy J. Maher

Typed or printed name

703 740-8322 x101

Telephone number

6/22/07

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒

*Total of 4 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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MASSON-001-US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: Electronic Kit Bag

INVENTORS NAME: MASSON : ART UNIT: 3663
SERIAL NO: 09/699,963 : EXAMINER: TO, TUAN C
FILED: 05 Nov 1999 :

PRE-APPEAL BRIEF REQUEST FOR REVIEW

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

In response to the Final Office Action dated 4/19/2007, for the above-identified patent application, please consider the remarks below:

Remarks/Arguments begin on page 2 of this paper.

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

In the outstanding Office Action, claims 68-73 were rejected under 35 U.S.C. §112, second paragraph, as indefinite. Claims 68-73 were rejected under 35 U.S.C. §101 as directed to non-statutory subject matter. Claims 68-73 were rejected under 35 U.S.C. §102(b) as anticipated by Cline et al. (U.S. Patent No. 4,642,775).

With regard to the rejection of claims 68-73 under 35 U.S.C. §112, second paragraph, Examiner suggests that the use of the term “capable of” for example, in claim 68, “suggests or makes optional but does not require steps to be performed or does not limit the scope of a claim or claim limitation” (Office Action 4/19/07, page 3).

Applicant agrees that the use of “capable of” in claim 68 does not require the explicit performance of the steps following the “capable of” term recited in claim 68 paragraph (b), however, it does limit the types of algorithms and operating programs to be programmed onto the computer. Claim 68 requires the step of “programming said computer with linear and non-linear algorithms and operating programs,” then requires said programs to be capable of, not required to perform,

“processing flight information, manipulating flight related data in a non-linear algorithm thereby aiding in flight decision-making processes resulting in solutions to flight related mathematical computations and runway selections and aircraft operating parameters and procedures, calculating pilot fatigue limits and scheduling issues and fuel computations, providing data displays to said professionals.”

Assuming, *arguendo*, that paragraph (b) of claim 68 is simply intended use and does not further limit the scope of the claim, paragraphs (a) and (c) still set forth explicit steps that that must be performed, definitely limiting the scope of the claim 68 and claims

69-73 which depend from claim 68. In light of the discussion above, Applicant respectfully requests reconsideration of this rejection and traverses the rejection of claims 68-73 under 35 U.S.C. §112, second paragraph.

With regard to the rejection of claims 68-73 under 35 U.S.C. §101, Examiner states that “claim 68 defines operating program embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory” (page 3). However, claim 68 states “programming said computer with linear and non-linear algorithms and operating programs,” and a computer is inherently a computer readable medium and inherently has memory. Therefore, for these reasons Applicant respectfully requests reconsideration of this rejection and traverses the rejection of claims 68-73 under 35 U.S.C. §101.

With regard to the rejection of claims 68-73 under 35 U.S.C. §102(b) as anticipated by Cline et al. (U.S. Patent No. 4,642,775), Cline, Applicant argues that Cline fails to teach or disclose each and every limitation of claim 68 and, therefore, fails to properly anticipate the claims as currently set forth under 35 U.S.C. §102(b).

Applicant’s invention provides, not only a lightweight easy to handle flight kit bag for use in flight planning, but also for use in processing a variety of information used by aviation professionals in flight operations and decisions. Claim 68 paragraph (c) recites, “loading aircraft and flight related data into said computer and pertaining to a flight plan, weather information for said flight plan, aircraft crew scheduling, aircraft maintenance information, aircraft load weight and balance, and flight passenger concerns.” Examiner cites Cline (col. 5 lines 20-24 and col. 8 lines 1-13) as disclosing these limitations, however, upon review of these passages there is no mention of aircraft

crew scheduling, aircraft maintenance information or flight passenger concerns. There is no mention of loading these pieces of information onto a transportable computer anywhere in the Cline reference. Applicant therefore, respectfully requests reconsideration of this rejection and traverses the rejection of claims 68-73 under 35 U.S.C. §102(b) as anticipated by Cline, at least in view of the above-mentioned discussion.

The present application is believed to be in condition for formal Allowance. A Notice of Allowance for claims 68-73 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

MAIER & MAIER, PLLC

A handwritten signature in black ink, appearing to read 'Tim J. Maier', written in a cursive style.

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